

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:09cv342-RJC-DSC**

**CARLTON KIMBLE and  
MICHELLE WHALEY,**

**Plaintiffs,**

**v.**

**U.S. BANK NATIONAL  
ASSOCIATION, GMAC  
MORTGAGE, LLC,  
RESIDENTIAL ASSET  
SECURITIES CORPORATION,  
KELLAM & PETTIT, P.A., &  
DAVID A SIMPSON, P.C.,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court on the Defendants’ Motion to Dismiss (Doc. Nos. 9, 10) and the Magistrate Judge’s Memorandum and Recommendation (“M&R”) (Doc. No. 11), which recommended that the motion be granted. The pro se Plaintiffs did not file a brief in opposition to the Motion to Dismiss or otherwise respond to the motion. The parties were advised in the M&R that objections were to be filed in writing within ten (10) days after service of the Magistrate Judge’s decision. (Doc. No. 11 at 6). The time for filing objections has since passed and no objections have been filed by either party in this matter. For the reasons stated below, the Court **GRANTS** the Defendants’ Motion to Dismiss.

**I. STANDARD OF REVIEW**

The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); Camby v. Davis, 718 F.2d 198, 198 (4th Cir. 1983). “By

contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

## **II. CONCLUSION**

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge’s findings of fact are supported by the record, and his conclusions of law are consistent with and supported by current case law. Thus, the Court hereby accepts the M&R of the magistrate judge and adopts it as the final decision of this Court for all purposes relating to this case.

**IT IS, THEREFORE, ORDERED** that the Defendants’ Motion to Dismiss is **GRANTED**.

Signed: September 24, 2009

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

